

## REMARKS

First, Applicant's counsel would like to thank Examiner Andersen for discussing the rejection of claims 1-12 in a telephone interview conducted April 3, 2007. Specifically, claim 1 and US Pat. No. 6,378,795 (McAlister et al.) were discussed during the interview. Applicant's counsel argued that original claim 1 was allowable over McAlister et al. because McAlister et al. does not disclose a first and a second region for releasably adhering tissue, and further because McAlister et al. does not disclose a septum between first and second regions. However, Examiner Andersen disagreed with Applicant's counsel and no agreement was reached.

Claims 1-12 are rejected. Claim 1 has been amended and new claims 31-42 have been added. Support for the new claims can be found at least in FIGS. 9A-11A and in paragraph nos. [0101] – [0105] of the current application. No new matter is presented. Claims 1-12 and 31-42 are currently pending. Reconsideration is requested.

Claims 1-12 were rejected under 35 U.S.C. §102(e) as being anticipated by McAlister et al. (US Pat. No. 6,398,795). Although Applicant respectfully disagrees with this rejection for the reasons stated in the previous response mailed to the USPTO on December 14, 2006, Applicant has amended claim 1 in order to expedite allowance of the current application. Applicant reserves the right to further prosecute the original claims in a continuation application.

Claim 1 as amended recites:

a tissue positioning device having a **first opening** in a first region  
for releasably adhering a first area of tissue and a **second opening** in a

second region for releasably adhering a second area of tissue thereto, **the first and second openings being separated by a septum.**

(emphasis added). McAlister et al. does not disclose a device having a first opening for releasably adhering a first area of tissue and a second opening for releasably adhering a second area of tissue. Instead, the device in McAlister et al. has only one window 20 for adhering to one area of tissue as shown in FIG. 3C. Further, McAlister et al. does not disclose first and second openings being separated by a septum. For these reasons, claims 1-12 are allowable over McAlister et al.

New independent claim 31 recites "a tissue positioning device defining a **first port** for releasably adhering a first area of tissue and a **second port** for releasably adhering a second area of tissue thereto." (emphasis added). As already stated, McAlister et al. only discloses a device with one window 20, and does not include a first port and a second port for releasably adhering separate areas of tissue. Further, McAlister et al. also does not disclose a device having "a septum positioned between the first port and the second port," as recited in claim 31. Accordingly, independent claim 31, and claims 32-42 that depend from claim 31, are allowable over McAlister et al.

In view of the foregoing, Applicant respectfully submits that all pending claims are now in condition for allowance. Reexamination and reconsideration of the application are respectfully requested and allowance at an early date is solicited.

The Commissioner is authorized to charge deposit account no. 06-2425 for any unforeseen fees arising from the filing of this paper.

Respectfully submitted,  
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